

The States, with our financial challenges right now, are not in a position to accept additional Medicaid responsibilities.

Senators who have worked in State government also recognize the problem. That is why so many of them from both parties are expressing serious misgivings about forcing States to expand Medicaid. Take one example. Senator NELSON of Nebraska, the former Governor, has explicitly said he would not support the new mandate. As he put it:

I will not support saddling the states with further obligations . . . you can take me out of the governor's office, but you can't take the governor out of me.

Even Senators who haven't said they oppose the idea are acknowledging the problem by working behind the scenes to have their States exempted from the mandate or to have it softened, a tacit admission of what the rest of us are saying; that expanding Medicaid is bad for States and bad if the goal is better health care.

Republicans tried to keep the idea out of the final health care bill, but those attempts were rejected. It is a shame, since there are a good many ways to increase access without expanding Medicaid—ways that would lead to better care and which wouldn't harm States financially. Increasing competition would lower costs and enable those who are currently uninsured to get good private coverage, private coverage that would provide them with far greater access to the care they need than Medicaid would and which would help lower overall costs for everyone. We should look to these ideas rather than looking to Medicaid as a solution to our problems, especially since so many people from both parties are massing against the idea of expanding Medicaid.

It is not too late to seek common-sense solutions to the problem of access. All of us acknowledge the problem. Now is the time to come up with a solution that all of us—Republicans and Democrats alike—support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

HEALTH CARE REFORM

Mr. KYL. Madam President, first of all, let me associate myself with the remarks of the Republican leader just now. I came to the floor because I wanted to reflect a little bit on what the majority leader said a few moments ago at a press conference. He announced that as a result of the efforts of a couple weeks of discussions behind closed doors—namely, in his office—he and a few other Democrats in the Senate have decided on what will be in the health care reform legislation. That is the first matter I wished to discuss, briefly.

The American people were told by the President they would be a full participant in the development of the legislation. They would know what it says. They would all be on C-SPAN.

They would get to see everybody hash out all the details, and they would understand what the Senate was about to do. On the contrary, what has happened is, a small group of Senators on the Democratic side went behind closed doors in the Democratic leader's office, and they have been working now for many days to put together this piece of legislation. We still don't know exactly what it says, but the majority leader has described it very generally, and he has described one of the most contentious pieces. It will have government-run insurance, he assures us. Well, government-run insurance is a very controversial concept. Obviously, that is going to be the subject of a lot of debate. But the American people have a right to understand what this is all about, what it means.

I think the first thing I would like to do is to say that Republicans are going to stand for certain principles in the consideration of this legislation. The first thing is we are going to want to know what it says. The American people have a right to know what it says. So as we find out, little by little, as the majority leader trickles out details about what is in here—or maybe one of these days we will actually get a written copy and we can read it and understand what is in it—we will share that information with the American people.

They have a right to know what it says. They have a right to know what it costs. Obviously, one of the things that has to happen is that the Congressional Budget Office or CBO, which has this responsibility, needs to examine the legislation, do all of its cost estimates and revenue estimates, and tell us what they think it costs. The American people have a right to know because they are very concerned about passing on the costs of this legislation to the next generation—to our kids and grandkids.

That brings up the third thing: How much will this increase the deficit? Does anybody believe that a \$1 trillion health care bill is not going to increase the deficit? I don't know of anybody who doesn't believe that it is going to increase the deficit. But by how much? A week ago, we had the first vote on the health care debate, and it was on a bill to borrow \$247 billion in order to ensure that physicians fees would not be cut. I am all for paying physicians. We need to pay physicians. My personal view is we need to pay them more, not less. But this legislation should have been part of the health care reform debate, because it is part of the overall cost of Medicare—for example, how much we reimburse physicians to take care of Medicare patients. No, that was going to be inconvenient because it would actually result in creating a larger deficit and, therefore, adding to our national debt. So we take that piece out and try to run it through as a separate bill—and by “we” I mean the majority leader. And he got a rude surprise. All of the Republicans said, of course, no, we

should not do it that way, and 13 of his Democratic colleagues agreed. They cared about the deficit. They said: We don't want to add to the debt and, therefore, this is the wrong way to go about it. We need to find a better way.

Another question the American people need to have answered is not only how much will it cost but how much will it add to the deficit, and then how much will it add to the debt that our children and grandchildren will have to pay? Republicans believe that any legislation should provide protection to all patients, whether they be seniors on Medicare, folks relying on Medicaid, or people in the private sector. Nobody should interfere with their physician or get between them and their physician. That is a very sacred relationship—the doctor-patient relationship—and the government should not get in between that. But that is what government-run insurance is all about.

Republicans are going to insist on protection of the American people from a delay and denial of care. Why do we raise delay and denial of care? Throughout the legislation considered by the committee so far, there have been numerous provisions that will result in the delay and denial of care and, in the long run, rationing of health care. I have talked about that on the Senate floor. We will examine the legislation that has now come out from behind the majority leader's closed doors and see what kinds of protections they have built in. If it is not much different than the bills already considered, my guess is there won't be any protections. Republicans will have to again present better ideas, our alternatives, that include protections for patients from having their care delayed and denied to the point that it is even rationed.

Another thing Americans are going to want to insist on with this new spending is they are not going to pay for it indirectly in the form of higher taxes or premiums. I think No. 5 or 6 on my list is that Republicans will want to provide protections so that the increased costs of the legislation are not passed on to the American consumer in the form of higher taxes or in the form of higher premiums.

Why am I concerned about that? Because, again, the CBO, which examined the legislation before the committees already, has said that the costs imposed on the insurance companies and others in the form of higher taxes will be passed through to their customers, to the beneficiaries, in the form of higher premiums. It is inevitable that when you have these taxes imposed among competing companies, in order for them to stay in business, they are going to have to pass some of these taxes on, and they are going to pass some of the increased fees on, and they are going to pass on the premium increases that will be required for them to satisfy the various government mandates.

Another question is, exactly what are the government mandates here? What

are people going to be required to do that they don't have to do today? Most people have insurance today. It works for them and they don't want it interfered with. Under this legislation, every single American will be required under law to buy a product, an insurance product—not just any product, but the product defined by the Federal Government. If the government has the authority to make you buy something and has the authority to tell you what has to be in it, it also has the authority to tell the people who create that what they can and cannot put in their product. Sure enough, that is what they have done with the insurance companies. They have said to them that you all have to offer the exact value—four different kinds of policies; you have to offer at least the middle two, and you may offer the other two, but you cannot offer any less or any more, and they all have to have the same value, and we will mandate what they have to cover. Since we are going to have a “one policy includes everybody” product, the same insurance policy will have to provide the benefits I need, the benefits you need, the benefits the occupant of the chair needs, and the benefits the American people watching this need. Some of us are old, some are young, some are male, some are female, some have illness, and some don't. You have all kinds of conditions. If we can buy our own insurance, usually we can find a policy tailored to fit our needs, and it doesn't cost as much money because it doesn't cover as many things. When you have to have one policy that covers everything for everybody for any conceivable issue, you will have a huge policy with all kinds of things covered and with the concomitant costs—namely, costs that cover all of those things—meaning a premium. That is one of the reasons premiums will be increased.

I think another thing we are going to have to find out about this legislation is, does it do what the other bills do, which is cut Medicare? This is important, because we have made a promise to America's seniors, and a lot of us have a lot of seniors in our States. I certainly do in Arizona. We have made a promise to seniors that we will provide basic care in the form of Medicare. They will have to pay a certain amount and the government will pay a certain amount, and it will provide certain benefits. Well, the seniors have said: But we think maybe our benefits are going to be cut. The President, Senator BAUCUS, and others have said: No, no, don't worry, your benefits will not be cut. The people who tell you that are trying to scare you.

Let me quote a couple of things. Last week, a USA Today-Gallup poll showed that Americans overwhelmingly oppose cutting Medicare to pay for health care reform. Sixty-one percent of Americans oppose it—almost 2 to 1 in opposition to cutting Medicare in order to pay for health care reform.

How do we know it will cut benefits and that, therefore, seniors do have a

right and a reason to be concerned? Let's go again to the nonpartisan CBO. What does it say about the legislation that has been debated so far? It estimates that the cost of the most moderate bill—and there are five bills all told, and now we have a new one coming out of the leader's office we have not read yet. But of the five bills, the most moderate is the so-called Baucus bill. According to the CBO, it would cut Medicare by nearly $\frac{1}{2}$ trillion—about \$450 billion. What do these cuts go to?

Here are the specifics: \$162.4 billion in permanent reductions for most Medicare-covered services, such as services supplied by hospitals, nursing homes, and hospice. Those are real benefits; \$117.4 billion in cuts to private Medicare plans, known as Medicare Advantage. Well over 30 percent of the people on Medicare in Arizona have this Medicare Advantage-type plan. And \$32.5 billion in cuts to home health care. This is something a lot of people count on, and that is a significant cut. There will be \$22.3 billion in savings from a new Medicare commission that will propose automatic cuts. A lot of people laugh and say these commissions always propose cuts and Congress never ends up adopting them. That may well happen here. I know that one of two things will happen: Either we are not going to reduce expenses and we won't have enough money to pay for the new entitlement programs created by the legislation, because Congress won't follow the recommendations and adopt them, or it will and there will be real cuts in Medicare benefits. One of those things is true, and neither is a good result.

Here is what CBO said about Medicare benefits. Remember, \$117.4 billion is being cut from Medicare Advantage. CBO spoke to that. It confirms in writing, and also to the members of the Finance Committee when Dr. Elmendorf appeared before us, that the value of the extra benefits offered by Medicare Advantage will drop from \$135 per month to \$42 per month by 2019. It gradually goes down from \$135 to \$42 per month. What are these benefits? They include dental care, vision care, preventive screenings, chronic care management—a whole host of things that are important for America's seniors.

What is the annual value of the reduction in benefits per enrollee? It is only \$1,116. We are not cutting benefits for seniors? Only to the tune of \$1,116. We are cutting benefits, and seniors have a right to be concerned.

Those who argue that Republicans should not be pointing this out to seniors—those who want to muzzle or gag us from telling seniors this will happen I suggest should consult CBO and realize that what they are asking seniors to do is beyond what they should be required to do, which is to take these kinds of cuts for a new entitlement.

Let me share some comments from some of my constituents who have ac-

tually written to me about the kinds of cuts they will suffer under this legislation. I have gotten a lot of letters. I asked my staff to compile a few so that I could share with my colleagues where they are concerned about losing drug coverage, preventive care, and a decline in the overall quality of their care. This is what they talk about. They realize you cannot cut nearly $\frac{1}{2}$ trillion dollars and not cut care. That is what it is all about.

One patient wrote that the Medicare Advantage plan helps him afford the seven medications he takes every day. He said:

I have been on Medicare now for four years and . . . my Medicare Advantage plan is the best deal around for seniors. The benefits for my prescriptions are a lifesaver. I could not afford my prescriptions without my Medicare Advantage plan. Having numerous medical problems and taking over 7 prescriptions per day—that can add up.

Another senior wrote this, again, talking about the savings and preventive care that would be lost under the plans for Medicare Advantage:

Please do not cut Medicare Advantage. It provides me with so many savings on doctor visits and prescriptions, including preventive care and the Silver Sneakers fitness program.

Let me digress for a moment. We hear a lot of talk about trying to get people healthier, to take care of their own bodies, as it were, and to provide incentives for people to eat better, have a better diet, to lose weight, not to smoke, and to go to the gym and work out a little bit. When we have a program that incents seniors to do these kinds of things, we should be happy to support that program and cut it only after great consideration, if at all. I suggest that we don't cut it. This constituent talks about that kind of preventive care. He says:

I will be 77 in a few weeks. I have not had any major surgery or hospitalization (thank God) and go to the fitness center three or four times weekly—something I could not do if Medicare Advantage is cut. I urge you not to cut this very important aid to senior citizens.

Another Medicare Advantage patient wrote to explain how the extra benefits she gets help her. She said:

I have never written to anybody in Congress because I didn't feel it necessary. Now I do because of the threat to cut my Medicare Advantage Plan.

When I turned 65 three years ago, I opted for a Medicare Advantage plan. I have been well taken care of and truly like my Health Net Ruby 3 plan and want to continue on it. For a small amount of \$38 extra a month, I not only get dental coverage, but also vision and benefits for a fitness program. These extra benefits have been a great savings for me, and I do not want to have them taken away. Please do not vote for a cut to my Medicare Advantage plan. I want to keep my benefits.

One more letter. This one, I thought, was especially touching. It is from a gentleman whose wife has pulmonary fibrosis and relies on Medicare Advantage for her treatments. They worry that the quality of her treatments will

decline if Medicare Advantage is cut, as proposed by this legislation.

Here is what he said:

If we lose Medicare Advantage, we are in trouble. United Healthcare Secure Horizons has provided us with great doctors that understand the disease. . . . It would be disastrous if she got a lung infection and had to go on a bureaucratic waiting list rather than being able to call our primary doctor as we do now. Please do not let them cut this great program.

The reason I quoted that letter is because another one of the things that is touted as a way to bend the cost curve and provide better care in the process is to coordinate the care from the primary physician right on through to any specialists and, Heaven forbid, if an individual has to go into a hospital, have surgery, or even have posthospital care in some kind of a facility. One can see how that kind of continued or coordinated care could be a real advantage to people and also end up saving money in the long term for the individual, for the insurance company that may take care of them, or the U.S. Government if we are paying for it as we do under Medicare Advantage, for example.

So here is a woman who talks about the fact that this kind of plan has been made available to her and why would we want to take it away. It has always been puzzling to me that because Medicare Advantage is actually administered by insurance companies, there seems to be something evil about it that a lot of our friends on the other side of the aisle would like to get rid of. They talk about having a government choice or a government option in their health care bill, but when it comes to options or choices for Medicare patients, they are not for that. They just want government only. They don't want the Medicare Advantage plan because it is actually administered by insurance companies.

What these companies do is provide a health maintenance organization-type of coverage where we have the continuum of care from the primary physician all the way through to whatever care may be required. This individual is talking about his wife being benefited by that kind of care. Why would we want to do away with that simply to save money so we can create a new entitlement? At the very time Americans are asking for better care, to ensure their care is not taken away from them, that is precisely what is being proposed by the other side.

Maybe I will be very surprised. Maybe we will finally have a chance to read the Reid bill or however the distinguished majority leader wishes to characterize it, and we will find they decided not to cut Medicare after all. If there are no Medicare cuts in the legislation, then I will be the first to come to the floor and say: Thank you. Thank you for not cutting seniors' Medicare. But if, in fact, as with the other bills that have been considered, this legislation ends up cutting Medicare anywhere from \$450 billion to \$500 billion,

then I think the concerns that have been expressed to me by my constituents need to be taken into account, and Republicans will insist on protection for our constituents. People should not have to go through the difficulties that are projected by these real people if this legislation ends up cutting their benefits.

We just talked about a few of the things. We have additional things we are going to talk about later on this week, about the tax increases and how the tax increases are going to be passed on to all Americans, even though they may, first of all, be levied against a device manufacturer.

For example, if you have heart surgery and there is a stint that is used in your treatment, that is a very sophisticated device. There is going to be a tax on that device. You are going to get taxed on that device. It may be placed on the device itself. It will be in your bill. When you look at your hospital bill, I guarantee you they are going to be passing it on to you.

There are other taxes. By the way, if you don't buy the insurance they require you to have, you are going to get a tax on that, too, administered by the friendly IRS, which raises a whole host of other problems. To have the Internal Revenue Service endorse a provision of this law is going to require a lot more folks down at the IRS to have the authority to look into your records and talk to your doctor and figure out whether you have bought insurance. If so, is it the right kind of insurance? Is it the kind of insurance the government says you have to have? If so, they will be happy to slap a tax on you, and you will have to pay for it. That is another tax you will be required to pay. There are others. As I said, we will talk about that later this week.

Then there are the premium increases. There was a real dispute about this issue. Folks said: We are not going to increase premiums after all. The whole exercise is to reduce the cost of health care, to cut premiums.

We said: That is a wonderful goal. We said: Let's see if you can come up with a goal that actually reduces health care premiums for people.

After all this time, it turns out they cannot do it. The Congressional Budget Office—again, the nonpartisan group of accountants we in the Congress have hired to analyze the cost of all these things and the effect of them—concluded that under this legislation that has been considered in the committees, the cost of the legislation, the cost of insurance is going to go up for the average family, not go down, compared to what it is costing them today.

There have been numerous studies on this issue. One of the studies broke it down by States and by region. They said the overall national increase, by the way, would be about \$3,300 per year increase cost in premium. Think about that. We are sporting a bill, the idea of which is to make health care less costly, but our insurance premiums are

going to go up \$3,300 and our taxes are going to go up. Do you know the reason? You cannot spend \$1 trillion and add a whole lot more people to the rolls and not have it cost more money, and it will cost more money. Should it?

I think we can achieve these objectives, as I have said many times from this podium, with targeted solutions to the specific problems that exist without increasing taxes or premiums. We have demonstrated how we can do that. The study I spoke of, though, said in certain States, such as the State of Arizona from which I come, the cost is going to be far greater than \$3,300. In fact, it is going to be, I believe it was some \$7,400 per family per year increase. That is astounding. That is as much money as some people pay for their insurance to begin with.

This study demonstrated that the increases could be as much as 95 percent. I guess that makes sense. If it costs \$8,000 for a policy today, and it is going to be increased by \$7,400, that is almost a 100-percent increase. It is incredible we would think about doing that on the American people. Yet that is the result of this absolutely nonpartisan study that was done by an entity that looked into all the different factors. They didn't cherry-pick the information. I know there was another group that was criticized because the insurance industry had hired them. That is not the study of which I speak. I am talking about the Oliver Wyman study.

There are so many things about this legislation we are going to need to know and that the American people are going to need to know. We are going to have to have plenty of opportunity to both read the bill and know how much it costs. Then we need to know how much it puts us in debt.

If the answer is it is not going to put us in any more debt or create a big deficit, we will just keep raising taxes until we have enough money to take care of it, that is not the answer either. It is not the way to get out of a recession, it is not the way to help hard-working families, and it is not the way to treat people we are trying to help by reducing their health care costs.

I hope as the next several days unfold, we will be able to read this product, this bill that was written in the majority leader's office. Maybe we will be surprised that it does not raise taxes, that it does not raise premiums, that it does not reduce care or ration care, that it does not cut Medicare. But I am not going to hold my breath. My guess is it will do all of those things, and when the American people confirm that is the result of this so-called health care reform, I am not going to blame them for saying: Absolutely not. We want no part of reform if that is what you are talking about.

I am reminded of a line. I haven't tracked down where it is, so I will not attribute it. I thought it came from Charles Dickens' "A Tale of Two Cities."

There was a character, Madame Defarge, who may have said this.

Again, the question of the French Revolution was on their minds. This person said: "Reform? Sir, don't talk of reform. Things are bad enough already."

That is apropos to this health care debate. We have costs going up right now. We don't need them to go up any more.

As another wag put it: You think health care is expensive now, wait until it is free. We all know there is no such thing as a free lunch. The money has to come from somewhere. As it turns out, in these bills, it is going to come from seniors, people who have private insurance and subsidize those on government insurance, and it is going to come from all taxpayers, including those who make less than \$200,000 a year, who the President said would not be taxed. A large percentage of the money, I think 87 percent in one case, will come from people making less than \$100,000 per year. Some of the tax provisions specifically impact primarily people who make less than \$50,000 a year. Health care reform should be about making it better for the American people, not making it worse.

It is going to be very interesting when we finally have an opportunity to review the legislation that was created behind closed doors to see whether it is going to pass these tests. We want to read it. We want to know how much it costs. We want to know that it is not going to add to the deficit or the debt. We are going to want to know that it will not result in the delay and denial of our care. In effect, we are going to want to know that the protections that are important for our constituents are in place.

I think there are some better ways to do this. Again, we will talk about those another day. We have already talked about them.

In the event you are saying, what kind of ideas are the Republicans talking about, I will mention one and stand down here.

We have been talking a lot about health care premiums and health care costs because doctors have to practice defensive medicine because if they are not careful, if they do not order a lot of tests, send their patients to a lot of different specialists, they are liable to get sued for malpractice. With this jackpot justice system we have, it costs a lot of money. The defensive medicine some have said can amount to \$100 billion or well over \$100 billion a year. There are two studies that put it over \$200 billion a year. Another study said just the cost of malpractice insurance premiums for doctors represents 10 cents on every health care dollar spent.

If we could reform medical malpractice laws, we could not only make the delivery of health care less expensive, we could make it less difficult for physicians to do what they consider to be the right thing without fear of getting sued, and we could dramatically reduce the cost of health care pre-

miums. This is a way to solve three problems that need to be solved, not cost a dime and, in fact, generate a huge amount of savings.

Why wouldn't we want to do this? As former Governor Dean of Vermont, former chairman of the Democratic National Committee, said on August 17 of this year at a townhall meeting in Virginia: The reason we haven't tackled medical liability reform is that we don't want to take on the trial lawyers.

I understand that. He is right. The Democratic majority did not want to take on the trial lawyers. But that is exactly what is wrong with Washington today.

We know what the problems are, we know what a lot of the fixes are, but we wouldn't want to take on the special interests such as the trial lawyers because that would not be good for us politically.

Republicans are saying: Yes, we do. It is time to take on those special interests. It is time to focus solutions on specific problems rather than trying to reform the entire health care system, including with a big government-run insurance company, in order to solve a problem that can be solved in a less intrusive way, less government intervention, less government expenditure, more private freedom, more money left in our pockets, and a greater assurance at the end of the day that we are going to continue to receive high-quality health care and not have it denied to us because of someone sitting in Washington, DC.

I urge my colleagues, as the days go forward, not only to review this legislation for themselves but to share those results with our constituents. They are the people for whom we work. They are the people we represent. They need to know what is in it. They need to know how much it will cost. They need to know it will not add to the deficit. They need to know it will not affect their health care. They need to know they will be protected and their benefits will not be cut, and they will be protected. It is up to us to provide that protection for them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HATE CRIMES

Mr. SPECTER. Madam President, I have sought recognition, briefly, to talk about the legislation on hate crimes, which was passed last Thursday as part of the Defense authorization bill, and to note the very different attitude which is present today than was present in 1997, when Senator Kennedy first took the lead in introducing hate crimes legislation, which I co-

sponsored with him at that time as well as Senators John Chaffee, James Jeffords and Alfonse D'Amato, the only Republicans who appeared on the bill at that time.

There was some substantial opposition, very little appreciation of the effort to expand hate crimes to include sexual orientation and also disability. Even the Washington Post had an editorial on November 17 raising questions about the wisdom of the legislation which we had introduced.

One of the concerns raised by the Post was that:

A victim of a biased-motivated stabbing is no more dead than someone stabbed during a mugging.

It seems to me, that missed the point. But even the Washington Post, at that time, challenged the rationale for expanding hate crimes. The Post also raised a comment about the disturbing aspect of the legislation is the lower threshold for Federal involvement, in any case.

Having had some experience as a district attorney, and knowing the practices of district attorneys having jurisdiction over a county—for example, my job was both the city and county of Philadelphia—that DAs do not have, in some areas, a very broad perspective.

Where the climate for a district attorney, an elected position, is not conducive to pursuing someone who has undertaken something which has a racial bias, a racial motivation or a motivation for a difference in sexual orientation, the cases are not brought.

That is precisely the kind of an area which warrants hate crimes legislation on the Federal level. But it has been a long battle, and the issue went through quite a few conferences. Thanks to the leadership of our distinguished majority leader, Senator HARRY REID, we have persisted. Senator REID has kept this issue front and center in the Senate, and Senator LEAHY, as chairman of the Judiciary Committee, and I in the past, in 2005–2006 in the 109th Congress, were pushing ahead on hate crimes legislation.

Senator LEVIN, as chairman of the Armed Services Committee, is to be commended for fighting it through and finally getting it through the conference. So it is quite a landmark move that the Congress has finally acted on it as we did last Thursday. There is a recognition that the Post was off base when it said:

A victim of bias-motivated stabbing is no more dead than someone stabbed during a mugging.

That suggests a misunderstanding of hate crimes, as Senator Kennedy and I wrote in an op-ed that:

Random street crimes don't provoke riots; hate crimes can and sometimes do.

A hate crime is broader than simply an attack against a victim, against the African American who was dragged through the streets in a small town in Texas which gave rise to the impetus for hate crimes legislation or the brutal attack on Matthew Shepherd in